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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 08/169,127 | 12/20/1993 | HISATO SHINOHARA | 0756945 | 2677 |
| 22204 | 7590 | 06/21/2005 | EXAMINER | |
| NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128 | | | PADGETT, MARIANNE L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1762 | |

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary

Application No.

08/169,127

Applicant(s)

SHINOHARA ET AL.

Examiner

Marianne L. Padgett

Art Unit

1762

All participants (applicant, applicant's representative, PTO personnel):

(1) Marianne L. Padgett.

(3) _____.

(2) Luan Do.

(4) _____.

Date of Interview: 6/(15,16,17)2005.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: Those of record, see attached summary by Mr.Do.

Identification of prior art discussed: 6,261,856 B1, 6,149,988 & 4,786,358.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

☒ PTO-892 attached



MARIANNE PADGETT
PRIMARY EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant proposed canceling claims that are presently rejected over obvious double patterning (generic claims) & the non-elected species, except for the sub-species of Si oxide ion blocking layers for what would be the remaining elected species. Due to unavailability of parent files, the examiner requested the date at which issues in the elected claims were added to the case (i.e. which CIP) in order to preform the update & search for next subspecies & was informed that it was 12/22/88. Attached PTO-892 lists references relating to Si laser annealing with underlying Si oxide, which is some times called ion blocking. Also, copending 6,261,856 B1 to Shinohara et al was found to have claims containing limitations of the claims that are proposed to be maintained/allowed, where limitations are claimed in different orders, to make obvious variations of overlapping scope. It was noted that the SiO & SiN layers therein may be called "blocking layers" without "ion", but the ion blocking function is obvious by context or in view of cited prior art, hence allowance without a terminal Disclaimer over the patent is not acceptable .

Padgett, Marianne*Part of Interview Summary (PTO-413)*

From: Do, Luan [LDo@nixonpeabody.com]
Sent: Wednesday, June 15, 2005 11:20 AM
To: Padgett, Marianne
Subject: app. no 08/169,127

Examiner Padgett:

Per our discussion yesterday, SEL has agreed to cancel the currently rejected claims (as summarized in the Advisory Action mailed May 25, 2005), and all the withdrawn claims so that the application can be allowed. The cancelling of the claims rejected under the double patenting rejections render the rejections moot.

A summary of the status of the claims are as follows.

As shown in the Office Action of May 19, 2004, claims rejected under double patenting rejections are: 1-4, 6-9, 18-22, 110-111 and 132-135.

As summarized in the Advisory Action of May 25, 2005, the rejected claims are: 1-4, 6-9, 19, 110-111 and 132-135.

As summarized in the Advisory of May 25, 2005, claims withdrawn are: 11-13, 17, 20-60, 63, 65, 68, 70, 73, 75, 78, 80, 83, 85, 90, 97-100, 112-130 and 136-139.

Claim 18 has been cancelled previously. Hence, the following claims are to be cancelled so that the application can be passed to allowance:

1-4, 6-9, 11-13, 17, 19, 20-60, 63, 65, 68, 70, 73, 75, 78, 80, 83, 85, 90, 97-100, 110, 111, 112-130, 132-139.

The following claims are in condition for allowance: 61-62, 64, 66-67, 69, 71-72, 74, 76-77, 79, 81-82, 84, 86-87, 89, 91-96, 101-109 and 131.

Having said the above, Applicants would respectfully request the claims dependent from the allowed independent claims be allowed as well. That is, claims 63, 65, 68, 70, 73, 75, 78, 80, 83, 85, 88 and 90 should be allowed as they are dependent from allowed independent claims.

If you'd agree to rejoin claims 63, 65, 68, 70, 73, 75, 78, 80, 83, 85, 88 and 90 because they're dependent from allowed claims, then the following would be a complete list of claims to be allowed:

61-63, 64, 65-67, 68-69, 70-96, 101-109 and 131.



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